

Statement under Article 19(1) (Rule 46.4)

With respect to International Application no. PCT/IN2004/000142

The inference of the Authorised officer that there is no novelty and inventive step in the subject matter of claims 24 and 25 is based principally on the reason given in his report as "The document D1 and D2 disclose the synthesis and isolation of sucralose, thus claims 24 and 25 lack novelty since the product by process must be new and inventive. A product is not rendered novel merely by the fact that it is produced by a new process."

We request to invite attention to the fact that the said "A product or composition" of claim no. 24 and "A product or composition of claim no. 24" as referred in the original claim nos. 24 and 25 refer not to "sucralose" as chemical entity but to the novel amorphous form of chlorinated sucrose (sucralose), its intermediates and its derivatives, which has different appearance and physical properties than the conventional crystalline forms and is not reported in the prior art. They relate to the disclosures made at two places in the above referred PCT application: (1) at line 13 to 18 of first paragraph on page no. 3 ("The final powder of the product are being studied") and (2) at the last paragraph on page no. 16 ("The solids isolated were, however, amorphous in nature having smaller particle size.").

The said novel form is amorphous in appearance to naked eye, seen to have flow properties and storage stability properties which are exclusively different than the prior art and open up a wide range of commercial applications which

originate as spin off from the new physical properties. The new forms are also diagnostic of the process used for their production, which itself is of commercial value in protecting the new process described in claims 1 to 23. Hence, the new forms need to be and qualify to be protected by patent claims as they have novelty, inventive step as well as industrial applicability.

In electron microscopic examination the said amorphous form comprises particles which are in the nature of either pure amorphous, microcrystalline with several shapes or transitional types. When they are of microcrystalline or transitional types, most of the particles are of particle size lesser than 20 microns, more than 90% particles being of size lesser than 12 microns.

To make the reference more explicit, both the claims nos. 24 and 25 are now replaced by amended claim nos. 24 to 31 which incorporate the subject matter of the original claim nos. 24 and 25 by redrafting, which involves bringing the relevant details in the draft of claims proper and by suitable subdivision of the details.

There will be no effect of these amendments in claims on drawings. However, it would be necessary to add information giving details of observations on particle size distribution and storage properties in the description.

For International Preliminary Examination, applicant wishes these amendments be taken into account.